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SENATE JOINT RESOLUTION 610
By Cooper

A RESOLUTION relative to the Occupational Safety and Health Administration's proposed ergonomics standards.

WHEREAS, Tennessee has enacted a comprehensive workers' compensation system with incentives to employers to maintain a safe workplace, to work with employees to prevent workplace injuries, and to compensate employees for injuries that occur; and

WHEREAS, Section 4(b)(4) of the federal Occupational Safety and Health Act, 29 U.S.C. § 653(b)(4), provides that "Nothing in this chapter shall be construed to supersede or in any manner affect any workmen's compensation law or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties or liabilities of employers and employees under any law with respect to injuries, diseases, or death of employees arising out of, or in the course of, employment."; and

WHEREAS, the Occupational Safety and Health Administration ("OSHA"), notwithstanding this statutory restriction and the constitutional, traditional and historical role of the states in providing compensation for injuries in the workplace, has nevertheless published a

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proposed rule that, if adopted, would substantially displace the role of the states in compensating workers for musculoskeletal injuries in the workplace and would impose far-reaching requirements for implementation of ergonomics programs; and

WHEREAS, the proposed rule creates in effect a special class of workers compensation benefits for ergonomic injuries, requiring payment of up to six months of wages at ninety percent (90%) of take-home pay and one hundred percent (100%) of benefits for absence from work; and

WHEREAS, the proposed rule would allow employees to bypass the system of medical treatment provided by Tennessee law for workers' compensation injuries and to seek diagnosis and treatment from any licensed health care provider paid by the employer; and

WHEREAS, the proposed rule would require employers to treat ergonomic cases as both workers' compensation cases and OSHA cases and to pay for medical treatment under both; and

WHEREAS, the proposed rule could force all manufacturers to alter workstations, redesign facilities or change tools and equipment, all triggered by the report of a single injury; and

WHEREAS, the proposed rule would require all American businesses to become full-time experts in ergonomics, a field for which there is little if any credible evidence and as to which there is an ongoing scientific debate; and

WHEREAS, the proposed rule would cause hardship on businesses and manufacturers with costs of compliance as high as eighteen billion dollars (\$18,000,000,000) annually, without guaranteeing the prevention of a single injury; and

WHEREAS, the proposed rule may force businesses to make changes that would impair efficiency in distribution centers; and

WHEREAS, this proposed rule is premature until the science exists to understand the root cause of musculoskeletal disorders, OSHA should not rush to make rules that are likely to

result in a loss of jobs without consensus in the scientific and medical communities as to what causes repetitive-stress injuries, and medical researchers must answer fundamental questions surrounding ergonomics before government regulators impose a one-size-fits-all solution; now, therefore,

BE IT RESOLVED BY THE SENATE OF THE ONE HUNDRED FIRST GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE HOUSE OF REPRESENTATIVES CONCURRING, That this General Assembly hereby memorializes the United States Congress to take all necessary measures to prevent the proposed ergonomics rule from taking effect.

BE IT FURTHER RESOLVED, That an enrolled copy of this resolution be transmitted to the Speaker and the Clerk of the United States House of Representatives; the President and the Secretary of the United States Senate; and to each member of the Tennessee Congressional delegation.